

ABSTRACT

The ever-growing use of cyber space has proven the modern technological development. Although the use of cyber space has facilitated and continues to facilitates modern life, cyber carries with it negative effects detrimental to both natural and legal persons. One of the negative effects of use of cyber space is the overwhelming challenges posed by cyber-attacks to the detriment of unsuspecting state. In international law, sovereign states are entitled to the right to be free from threat or use of force. Nevertheless, this freedom is jeopardized in realm of cyber-attacks. Cyber-attacks continue to pose threats to state sovereignty and this is not only a breach of prohibition of use of force under article 2(4) of the UN Charter but also a breach of customary principle of non-intervention. Cyber-attacks may be commensurate with prohibited use of force. Unlawful use of force by state gives rise to responsibility. This implies that even in cyber-attacks, state that launches a cyber-attack against another may be held responsible. Responsibility in cyber-attacks however, suffers sophisticated challenges pertaining to ascertaining and attributing responsibility to the alleged state. Most of challenges therein are equated with technological nature of cyber-attacks and lack of specific treaty regulating these unprecedented fates. In cyber-attacks however, just like in kinetic attacks, state victim may resort to self-defense as exercise of its inherent right albeit the principles of self-defense must be respected. As a way forward, there is a need for specific and binding treaty regulating cyber-attacks at planetary level.

Key Words: Challenges of State Responsibility, Cyber-attacks, International law, State Sovereignty